

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**OMNIPOINT COMMUNICATIONS, INC.,
OMNIPOINT NY MTA LICENSE, LLC,
and T-MOBILE LICENSE LLC,**

Plaintiffs,

-against-

**THE TOWN OF RAMAPO, THE TOWN
OF RAMAPO PLANNING BOARD,
PLANNING BOARD CHAIRMAN
SYLVAIN KLEIN, BRACHA GOBIOFF,
BRENDEN LOGAN, REV. WALTER
BRIGHTMAN, JR., JOHN BRUNSON,
RICHARD STONE, DORA GREENE, in
their official capacities, constituting the
Town Planning Board, THE TOWN OF
RAMAPO TOWN BOARD and LIBORIO
DERARIO in his official capacity as
Director of Building Administration and
Code Enforcement,**

Defendants.

**JOINT LETTER PURSUANT
TO NOTICE OF
REQUIREMENT TO SUBMIT
A SCHEDULING ORDER**

**08 CV. 2419 (SCR)
ECF CASE**

This joint letter is submitted pursuant to this Court's "Notice of Requirement to Submit a Scheduling Order", dated March 12, 2008.

DESCRIPTION OF THE CASE

Plaintiffs commenced this action on March 10, 2008 under the federal Telecommunications Act of 1996 (the "TCA") seeking to declare unlawful the unreasonable delay and effective denial by defendants of plaintiffs' application (the "Application") for a special permit and site plan approval to install a wireless

telecommunications facility. Plaintiffs sought permission from the defendant Town of Ramapo Planning Board to install a one hundred (100') foot monopole, using stealth technology designed to resemble a tree, with six (6) small panel antennas camouflaged with tree branches and related equipment cabinets at the base thereof, located at a public utility gas substation on Eckerson Lane, Town of Ramapo, New York. At the time plaintiffs commenced this action, the Application had been pending for more than twenty-two (22) months and a decision had not been rendered on same. However, the Planning Board previously issued a negative declaration pursuant to the New York State Environmental Quality Review Act finding no significant adverse impacts and the Zoning Board of Appeals granted all necessary variances.

Subsequent to the commencement of this action, defendant Planning Board denied the Application. Plaintiffs supplemented the complaint to seek to declare unlawful the defendant Planning Board's denial of the Application. Plaintiffs allege that the Planning Board's denial of the Application: (1) is not based on substantial evidence; (2) is not in writing; (3) constitutes a prohibition of the provision of wireless service; (4) was based on the environmental effects of radio frequency emissions all in violation of the TCA. Plaintiffs also allege that the Planning Board's denial of the Application was arbitrary and capricious and not based on substantial evidence, in violation of the New York State Town Law and the Town of Ramapo Zoning Code, all in violation of Article 78 of the New York State Code of Civil Practice Law and Rules.

Defendants have raised the affirmative defense that the Planning Board's decision was fully supported by the record.

Jurisdiction is vested in this Court pursuant to 28 U.S.C. §1343 and §1331 because this is a civil action that presents federal questions arising under the TCA. This Court has supplemental jurisdiction over any and all New York State Law claims pursuant to 28 U.S.C. §1367.

CONTEMPLATED MOTIONS

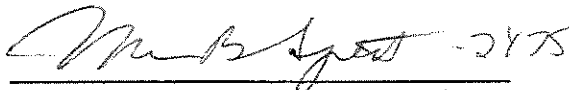
The parties are ready to proceed with motions on summary judgment.

PROSPECT FOR SETTLEMENT

The parties have been unable to reach a settlement agreement.



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Dated: June 18, 2008